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L & L Wings, Inc.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

L & L WINGS, INC.,

Plaintiff and Counterclaim Defendant,

-against-

MARCO-DESTIN INC., 1000 HIGHWAY
98 EAST CORP., PANAMA SURF &
SPORT, INC. AND E & T INC.,

Defendants and Counterclaim Plaintiffs.

ECF Case

Civil Action No. CV-07-4137
(BSJ) (GWG)

NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Plaintiff L & L Wings, Inc.'s Motion for Partial Summary Judgment (filed under seal), Plaintiff's Statement of Undisputed Material Facts (filed under seal), the Declarations of Diane Hertz (filed under seal), Shaul Levy (filed under seal), Albert Levy, Michael Hodge, Harold Thompson, Gregory Choate, Curtis Burkett, and the seven (7) Declarations of Dave Graziadei,

together with the exhibits attached to each Declaration, Plaintiff will move this Court before the Honorable Barbara S. Jones, at the United States Courthouse for the Southern District of New York, located at 500 Pearl Street, New York, New York, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for an Order granting summary judgment in favor of Plaintiff (1) on Count I of its Complaint (for trademark infringement under the Lanham Act), Count III of its Complaint (for violation of Sections 360-*l* and 133 of the New York General Business Law), Count IV of its Complaint (for common law service mark infringement), Count V of its Complaint (for common law unfair competition), and Count VI of its Complaint (for breach of contract); (2) dismissing Defendants' Counterclaims; and (3) establishing Plaintiff's right to recover: (a) liquidated damages and attorneys' fees under the Licensing Agreement, dated February 17, 2000, between and among the parties in an amount to be determined at trial; (b) relief under Sections 34(a) and 35(a) of the Lanham Act, 15 U.S.C. §§ 1116(a) and 1117(a), in amounts and in the form to be determined at trial; and (c) such other relief as may be available under Counts III, IV and V of the Complaint.¹

¹ Upon judgment on this motion, Plaintiff will seek a hearing or inquest to determine the actual amounts of monetary relief to which it is entitled under the liquidated damages provision of the Licensing Agreement, the Lanham Act, and New York law, as well as its entitlement to trebled or enhanced monetary relief under the Lanham Act, reasonable attorneys' fees under the Licensing Agreement and the Lanham Act, other monetary relief to which it is entitled under New York law including punitive damages under New York unfair competition law, and a permanent injunction on further infringement of the Mark and Trade Dress by Defendants.

Pursuant to Local Rule 6.1, any opposition papers must be served on Plaintiff's undersigned counsel no later than ten business days from the date of service hereof.

Dated: New York, New York.
September 4, 2008

BINGHAM McCUTCHEN LLP

By: /s/ Diane C. Hertz

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